THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.30289 OF 1998

ORAL ORDER:

This writ petition is filed aggrieved by the order dated 9.7.1998 passed by the Joint Collector and Additional District Magistrate, Anantapur, thereby canceling the mutation effected in the revenue records on 23.6.1976 with regard to lands in Sy.No.190 and 173 of Amidalagondi village, Madakasira mandal, Anantapur.

It is stated that the land in question originally belonged to one Kolimimunti Papadu and the same was purchased by the petitioner's father under a registered sale deed dated 18.4.1934. From the date of purchase, the property continued to be in possession and enjoyment of the petitioner's family and that in the family partition affected on 20.12.1957 the same was allotted to the petitioner. Since then the petitioner has been in exclusive possession and enjoyment of the land in question. His name was also mutated in the revenue records.

While so, the respondents 3 to 11 herein filed W.P.No.3651 of 1997 claiming ownership to the land in question and seeking a declaration that the alleged action of the Mandal Revenue Officer in not issuing the pattedar pass books in respect of the said land is arbitrary and illegal. The said writ petition was disposed of by this Court by order dated 26.2.1997 directing the petitioners therein to file a Revision before the District Collector. Pursuant thereto, the respondents 3 to 11 filed Revision Petition before the 1st respondent herein claiming that they are the grandsons of Palaiah and Obanna, who are the brothers of the vender of petitioner's father. It was alleged that the vendor of the petitioner's father had no exclusive rights, but he was a co-sharer along with his brothers- Palaiah and Obanna and, therefore, the sale if any in favour of the petitioner's father was invalid. The petitioner was also made a party to the said Revision Petition and he filed a detailed counter contesting the claim of the

revision petitioners/respondents 3 to 11 herein. However, the 1st respondent by order dated 9.7.1998 while holding that the sale transaction under the registered document dated 18.4.1934 was irregular since the vendor had only 1/3rd share in the property in question, cancelled the mutations affected in the revenue records and directed the parties to approach the civil Court to establish their rights over the land in question. The said order is under challenge in this writ petition.

Having heard the learned counsel for both the parties and having perused the material on record, I do not find any justifiable reason to hold that the order under challenge suffers from any infirmity. As could be seen, there is a serious dispute with regard to the title in respect of the property in question between the rival parties. Hence, the 1st respondent cannot be found fault with in cancelling the mutation affected in the revenue records in respect of the said lands and directing the Mandal Revenue Officer to take appropriate action after the disputes are settled by a competent civil Court. However, I find force in the submission of the learned counsel for the petitioner that the 1st respondent ought not to have recorded a finding that the sale in favour of the petitioner's father, which took place in the year 1934, was irregular. As rightly contended by the learned counsel for the petitioner, the validity or otherwise of the said sale transaction, which requires determination of several questions of fact and law, is an issue to be decided by the competent civil Court on appreciation of the evidence that may be adduced by the rival parties. Hence, the 1st respondent committed an error in recording a finding on the validity of the said transaction. Accordingly, the finding so recorded by the 1st respondent in the impugned order is hereby set aside and the writ petition is disposed of granting leave and liberty to the parties to work out appropriate remedy before the competent civil Court. It is made clear that any such proceedings shall be decided on the basis of the evidence that may be produced by the parties without

being influenced by any of the observations made by the 1st respondent in the impugned order. It is also made clear that till the rights of the parties are determined by the competent civil Court, the *status quo* obtaining as on today with regard to possession of the property in question shall be maintained.

The writ petition is accordingly disposed of. No costs.

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(G. ROHINI).

26th March, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.30289 OF 1998

26th March, 2007.

Between:

Kapu Ramakrishnappa. .. Petitioner.

And

The Joint Collector, Anantapur and others. ..

Respondents.